CURRENT DECISIONS

ACKNOWLEDGMENTS—TAKING SEPARATE ACKNOWLEDGMENT BY TELEPHONE.—A husband and wife executed a trust deed, and the wife's acknowledgment was taken over the telephone. The Code of Tennessee requires that a wife's acknowledgment be taken separately and after privy examination. The wife, claiming the trust deed was void as to her, sought to enjoin a sale of her homestead. *Held,* that her privy examination could not legally be taken over the telephone, that the notary's certificate could be impeached by her testimony, and that the deed was void as to her homestead rights. *Roach v. Francisco* (1917, Tenn.) 197 S. W. 1099.

It is not an uncommon practice of notaries to take acknowledgments by telephone, yet the courts have very seldom passed upon the validity of such acknowledgments. The principal case follows an earlier Tennessee decision. Only one other case has been found. *Banning v. Banning* (1889) 80 Cal. 271, 22 Pac. 210. There the court held that the notary's certificate could not be impeached by the wife's testimony. *Cf. Sullivan v. Bank* (1904) 37 Tex. Civ. App. 228, 83 S. W. 421 (holding that the oath to an affidavit cannot be taken over the telephone).

ALIEN ENEMIES—RIGHT TO SUE—SUMMARY SUSPENSION OF SUIT.—A German partnership, of which two members were subjects of Germany and resident therein and the third was a German subject resident in London, began suit in 1910 to recover funds embezzled by an agent and paid to the defendants. When the United States entered the war, the evidence had been closed, and the case was pending before a referee whose decision was being withheld to await the submission of briefs. A motion to dismiss the suit, made after our declaration of war, was denied on the ground that the alien enemy status of the plaintiffs must be set up by answer. It also appeared by affidavit that in 1910 the plaintiffs had assigned their cause of action to American citizens, as trustees for the benefit of creditors, of whom some were American banks and others alien enemies. *Held,* that the court had jurisdiction summarily to suspend prosecution of the suit whenever it was established by affidavit, or otherwise, that the plaintiffs were non-resident alien enemies, and that this defense need not be raised by supplemental answer; also that the prejudice to the American banks by suspending the suit was not a sufficient reason to refuse suspension; with a *dictum* that the Alien Enemy Property Custodian might intervene and continue the prosecution of the suit. *Rothbart v. Herzfeld* (1917, Sup. Ct.) 167 N. Y. Supp. 199.

On the general subject of the right of alien enemies to sue in our courts, see COMMENTS (1917) 27 YALE LAW JOURNAL 104, 108.

CONFLICT OF LAWS—MARRIED WOMAN'S CONTRACT—ENFORCEMENT IN STATE WHERE COMMON LAW DISABILITY PREVAILS.—In a suit brought in Idaho on a joint promissory note of a woman and her husband, made and payable in Oregon, judgment and execution was sought against the woman's separate property. In Idaho a *feme coverte* can contract only for her own benefit; Oregon has removed all common law disabilities. *Held,* that the wife's separate property was subject to execution. Budge, C. J., *dissenting. Meier & Frank Co. v. Bruce* (1917, Idaho) 168 Pac. 5.

The weight of authority, following *Milliken v. Pratt* (1878) 125 Mass. 374, is that a married woman's capacity to contract is to be determined by the law of the place where the contract is made rather than by that of her domicile. *A fortiori* is this true where the place of making and the place of performance coincide, as here. The dissent seeks to bring the case within the rule as to contracts contrary to the settled policy of the forum, being apparently influenced largely by the fact, not discussed by the majority, that the note was given to an Oregon assignee of a debt previously contracted in Idaho. *Cf.* as to extra-territorial effect of disability to contract marriage (1917) 27 YALE LAW JOURNAL 131.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF THE LAWS—OHIO WORKMEN'S COMPENSATION ACT.—The Compensation Act of Ohio provides for compulsory contribution by employers to a state insurance fund from which compensation is paid to injured employees; but section 22 authorizes "employers who will abide by the rules of the state liability board of awards and may be of sufficient financial ability or credit to render certain the payment of compensation," to pay individually and directly to the injured employees the compensation provided for in the Act. In proceedings to oust certain insurance companies from the franchise of writing accident insurance for such employers, the constitutionality of section 22 was challenged on the ground that it prevented the Act from having a uniform operation. *Held,* that the section was a valid enactment. *State v. United States Fidelity etc. Co.*

The constitutionality of other sections of the Ohio Act was upheld in *Porter v. Hopkins* (1914) 91 Oh. St. 74, 109 N. E. 629. As to the validity of compensation acts in other states, see (1917) 26 YALE LAW JOURNAL 618; 27 *ibid.* 136.

CONSTITUTIONAL LAW—FREEDOM OF CONTRACT—MINIMUM WAGE LAW FOR WOMEN.—In 1915 Arkansas enacted "an act to regulate the hours of labor, safeguard the health and establish a minimum wage for females." In proceedings by the State, the defendant contended that the portion of the act which relates to fixing wages was unconstitutional. *Held,* that the act was a valid exercise of the police power, being a regulation tending to guard the public morals and public health. McCullock, C. J., *dissenting. State v. Crowe* (1917, Ark.) 197 S. W. 4.

A similar statute in Oregon was upheld by the Supreme Court of that state, and its decision was recently affirmed by the federal Supreme Court without opinion, the court being equally divided. *Stettler v. O'Hara* (1914) 69 Oreg. 519, 139 Pac. 743; s. c. (1917) 243 U. S. 629, 37 Sup. Ct. 475. *Cf. The Oregon Ten Hour Law* (1917) 26 YALE LAW JOURNAL 607.

CONSTITUTIONAL LAW—QUALIFICATIONS OF VOTERS—WOMAN SUFFRAGE IN CITY ELECTIONS.—The charter of East Cleveland conferred upon women the right to vote in city elections. The petitioner sought by mandamus to enforce her right, the defendant election officials contending that the charter provision violated Sec. 1, Art. V of the Constitution which declares that "every white male citizen . . . shall have the qualifications of an elector, and be entitled to vote at all elections." *Held,* that the charter was valid since the Constitutional definition of the qualifications of electors is controlling only in offices and elections of Constitutional origin or cognizance and does not embrace municipal elections. Jones, J., *dissenting. State, ex rel. Taylor v. French* (1917, Oh.) 117 N. E. 173.

Many of the conflicting authorities are collected in the opinions.